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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,106	09/17/2003	Peter C. McEachen	LTTK.P6540US	6146

7590

11/16/2005

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EXAMINER

MILLER, BENA B

ART UNIT

PAPER NUMBER

3725

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/665,106

Applicant(s)

MCEACHEN ET AL.

Examiner

Bena Miller

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 4-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

*Bena B. Miller*

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 02/02/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 4-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with indefiniteness that is too numerous to point out in every instance. The following examples are provided for the applicant use in making corrections wherever appropriate but not specifically pointed to.

Regarding claims 1, 4, 10, 17, 19, 26, 28 and 31, the claims recite the items can be selectively attached to the host structure. It should be noted that a broad range or limitation followed by linking term (e.g., can be) and a narrow range or limitation within the broad range or limitation is considered indefinite since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Further, it is not clear if the particular tag is the same as the tag of the plurality of attachable items.

Regarding claim 5, in claim 1, the host structure comprises at least one reader; however, the claim recites "each reader". It is not clear if host structure comprises at least one reader or more than one reader. Further, it is not clear if the bar code is printed on one of the attachable items or all of the attachable items.

Regarding claim 8, it is not clear if the particular output of the output device in line is the same as the output in line 10 of claim 1.

Further in claim 19, it is not clear what is all encompassed by the phrase "other accessories". In other words, does the accessories includes, for example only, a glove, a shoe, etc. Further, it appears that the phrase "the attachable items resemble hats, masks, and other accessories" is an improper Markush grouping.

Regarding claim 21, there is lack of antecedent basis for the limitation " the identification device".

Regarding claim 32, it is not clear if the teddy-bear torso the same as the torso of the host structure recited in line 2 of the claim 31 and teddy-bear body parts the same as the missing body parts of the items in line 5 of claim 31.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6, 10, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Kawai et al (US Patent 4,869,701).

The device of Kawai et al reads on the structural limitations of the claims including a host (13), a plurality of attachable items (11a, 11b), outputs ( and col. 6, lines 10-14 and the at least one reader broadcast a radio frequency activation signal (42,43).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-6, 10-15, 17, 18 and 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Au (US Publication 2003/0138766) in view of Kawai et al (US Patent 4,869,701).

Au teaches most of the elements of the claimed invention including a plurality of attachable items (50 and par. 30), a host structure comprising at least one reader (12,16), an output device (19—par. 34) and connectors (par. 34). It should be noted that item 50 fits around the host structure 16 as seen in figure 2. However, Au fails to teach a radio frequency activation signal (par. 34). Kawai et al teaches in the figures an electrical educational toy that use radio frequency when generating sounds between two attachable components of the toy (42,43). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a radio frequency activation signal as taught by Kawai for the toy of Au for the purpose of emitting sounds when to toy components are attached.

Regarding claims 4, 5 and 24, Au fails to each the at least one reader and tags comprise a bar code identification device. The claims do not appear to contain any additional features, which in combination with the features of the claim to which they refer, add anything novel. As such, it would have been an obvious design choice to one having ordinary skill in the art to add the claimed features to the prior art device.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kawai et al in view of Lee et al (US Patent 4,968,255).

Kawai et al teaches most of the elements of the disclosed invention. However, Kawai fails to teach a mode selector. Lee et al teaches in the figures an electronic instructional apparatus having 6 basis modes of operation. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a mode selector as taught by Lee et al in the toy of Kawai for the purpose of helping develop the skills of an individual when the toy is manipulated.

Claim 19-21 and 28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawai et al.

Kawai et al teaches most of the elements of the claimed invention, including lights (col. 8, par. 2). However, Kawai et al fails to teach a personality-void head, hats, mask, other accessories and missing body parts. Kawai et al teaches in col. 7, par. 4 that the shape of the toy could imitate other shapes such as "airplanes", "a train", and specific animals. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the claimed features (i.e., the personality-void head, hats, missing body parts, etc) for the toy of Kawai for the purpose of maintaining the interest of a child when playing with the toy.

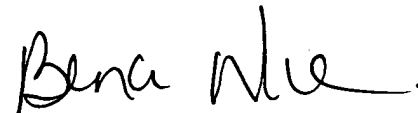
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 571.272.4427. The examiner can normally be reached on Monday-Friday.

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The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bena Miller  
Primary Examiner  
Art Unit 3725

bbm  
November 13, 2005